officer to make the decision as to whether products are "comparable", are "quality" products, and meet their "delivery times", whether they are procured from FPI or the private sector. Each department within the Department of Defense may have different needs and the person best able to make these decisions is the contracting officer and their judgement should be relied upon in purchasing goods that fit the needs of their department. A one-size fits all approach will only dilute what we believe was the intent of Congress.

The second issue we believe needs to be addressed is that of competition. According to the interim rule, if FPI's product is not comparable, DoD must use competitive procedures to acquire the product. In conducting such a competition, DoD must consider a timely offer from FPI for award.

The way this is worded it gives FPI two opportunities at continuing their mandatory source status. The way the interim rule is written, if FPI's prices, quality, and delivery time aren't comparable, then they have a second chance to meet these criteria through the competition phase. If FPI can't meet the criteria the first time, why should they get a second opportunity to do so? We'd like to see the final rule incorporate language, which would allow contracting officers to review FPI's initial bid and then should the determination be made that they aren't "comparable", then contracting officers should be able to go directly to the private sector for bids without having to accept another bid from FPI. The way the current language reads it gives FPI two chances at meeting the specified criteria. This is not a luxury afforded to the private sector. If the final rule is going to level the playing field, which we believe was the intent of Congress, then language needs to be incorporated that eliminates the requirement that contracting officers must accept a second bid from FPI for the same procurement.

The third issue needing to be addressed is that of congressional intent. This is important because the final rule, if written correctly, will provide the private sector the relief sought by Congress last year. We believe that the intent of Congress requires language in the interim rule to be clarified in a way that meets that goal.

The language in the interim rule states that contracting officers can seek out competition from the private sector if FPI's products are not comparable in price, quality, and time of delivery to products from the private sector. This language needs to be clarified so that there is no misinterpretation of exactly what this means. It is our belief that the intent of Congress was that if FPI failed to meet any of the three criteria, then contracting officers would be able to use competitive procedures. The final rule needs to reflect this intent and new language needs to be inserted that makes this point very clear for contracting officers.

We believe that congressional intent was to eliminate mandatory source and replace it with competitive procedures that gives flexibility to contracting officers in their mission of procuring quality goods that meet their needs and their budgets. The intent of Section 811 is just that and it is our hope that the final rule will